

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

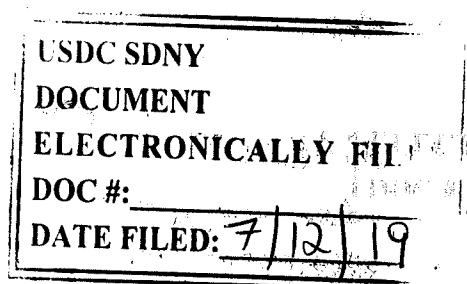
ALEXANDER CARNO,

Plaintiff,

-against-

CORRECT CARE INC., UNKNOWN
CORRECTIONAL OFFICER (ONE), UNKNOWN
CORRECTIONAL OFFICER (TWO), UNKNOWN
NURSE (ONE), UNKNOWN NURSE (TWO),
MEDICAL DIRECTOR OR CEO OF CORRECT
CARE INC., SUPERINTENDENT OF
WESTCHESTER COUNTY JAIL,

Defendants.



17 cv 7998 (NSR)

ORDER

NELSON S. ROMÁN, United States District Judge:

On July 11, 2019, County Defendants and Correct Care Solutions Defendants filed a letter motion, requesting that the Court strike from the record Plaintiff's latest effort at filing a Third Amended Complaint, ((“TAC”), ECF No. 91), as well as Plaintiff's belated Motion for Reconsideration. (*See* Motion for Reconsideration, ECF No. 90; Letter Dated 7/11/19, ECF No. 90.) Part of Defendants reasons for this request was because certain Defendants had already been dismissed from this action.

The Court first notes that County and Defendants and Correct Care Solutions Defendants had only been dismissed, *without prejudice*. (*See* Order, at 20-27, ECF No. 88.) Therefore, Plaintiff is permitted to maintain his allegations against them and add new Defendants, as he attempted to do. What Plaintiff may not do is plead claims against the terminated federal defendants.

Next, the Court addresses Plaintiff's Motion for Reconsideration. Defendants are correct that the Motion is untimely, as it was filed on July 3, 2019, far more than 14 days after the Court

issued judgment on May 28, 2019. (ECF No. 88.) Even if this Court were to pardon the two-three-week delay in filing, Plaintiff's filing is simply not a Motion for Reconsideration. It appears to be an attempted Third Amended Complaint, and indeed, Plaintiff files the same document as his purported TAC. (*Compare* ECF No. 90 *with* ECF No. 91.) Accordingly, the Court denies Plaintiff's Motion for Reconsideration as improper as to timing and form.

Lastly, the Court addresses the propriety of Plaintiff's TAC. While Plaintiff has clearly attempted to provide more details and include the correct parties, Plaintiff has failed to follow the proper form for the filing of an amended complaint. (*See* attached form for a prisoner to file an Amended Complaint). Plaintiff is therefore instructed to re-file his amended complaint within 30 days using the form attached and attaching additional pages, should he need more space. Plaintiff should compose his "Facts" section in numbered paragraphs.

CONCLUSION

Plaintiff's Motion for Reconsideration is DENIED as to form and timing. The Clerk of the Court is respectfully directed to terminate this Motion at ECF No. 90 and Defendants' Letter Motion at ECF No. 92. Plaintiff shall have until August 12, 2019 to file a Fourth Amended Complaint in which he must comply with the form requirements of a complaint. The Court has attached the correct form for an amended complaint to this decision, and Plaintiff may attach his detailed allegations to this form should he need more space.

The Clerk of the Court is directed to mail a copy of such Order to Plaintiff at his last address listed on ECF and to show proof of service on the record.

Dated: July 12, 2019
White Plains, New York

SO ORDERED:

A handwritten signature in black ink, appearing to read "N. S. Román", is written over a horizontal line.

NELSON S. ROMÁN

United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Write the full name of each plaintiff.

-against-

____ CV _____
(Include case number if one has been assigned)

**AMENDED
COMPLAINT**
(Prisoner)

Do you want a jury trial?
☐ Yes ☐ No

Write the full name of each defendant. If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed above must be identical to those contained in Section IV.

NOTICE

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

I. LEGAL BASIS FOR CLAIM

State below the federal legal basis for your claim, if known. This form is designed primarily for prisoners challenging the constitutionality of their conditions of confinement; those claims are often brought under 42 U.S.C. § 1983 (against state, county, or municipal defendants) or in a "*Bivens*" action (against federal defendants).

☐ Violation of my federal constitutional rights

☐ Other: _____

II. PLAINTIFF INFORMATION

Each plaintiff must provide the following information. Attach additional pages if necessary.

First Name	Middle Initial	Last Name
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State any other names (or different forms of your name) you have ever used, including any name you have used in previously filing a lawsuit.

Prisoner ID # (if you have previously been in another agency's custody, please specify each agency and the ID number (such as your DIN or NYSID) under which you were held)

Current Place of Detention

Institutional Address

County, City	State	Zip Code
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III. PRISONER STATUS

Indicate below whether you are a prisoner or other confined person:

☐ Pretrial detainee

☐ Civilly committed detainee

☐ Immigration detainee

☐ Convicted and sentenced prisoner

☐ Other: _____

IV. DEFENDANT INFORMATION

To the best of your ability, provide the following information for each defendant. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are identical to those listed in the caption. Attach additional pages as necessary.

Defendant 1:

First Name	Last Name	Shield #
Current Job Title (or other identifying information)		
Current Work Address		
County, City	State	Zip Code

Defendant 2:

First Name	Last Name	Shield #
Current Job Title (or other identifying information)		
Current Work Address		
County, City	State	Zip Code

Defendant 3:

First Name	Last Name	Shield #
Current Job Title (or other identifying information)		
Current Work Address		
County, City	State	Zip Code

Defendant 4:

First Name	Last Name	Shield #
Current Job Title (or other identifying information)		
Current Work Address		
County, City	State	Zip Code

V. STATEMENT OF CLAIM

Place(s) of occurrence: _____

Date(s) of occurrence: _____

FACTS:

State here briefly the FACTS that support your case. Describe what happened, how you were harmed, and how each defendant was personally involved in the alleged wrongful actions. Attach additional pages as necessary.

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

VII. PLAINTIFF'S CERTIFICATION AND WARNINGS

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I understand that if I file three or more cases while I am a prisoner that are dismissed as frivolous, malicious, or for failure to state a claim, I may be denied *in forma pauperis* status in future cases.

I also understand that prisoners must exhaust administrative procedures before filing an action in federal court about prison conditions, 42 U.S.C. § 1997e(a), and that my case may be dismissed if I have not exhausted administrative remedies as required.

I agree to provide the Clerk's Office with any changes to my address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

Dated _____		Plaintiff's Signature _____
First Name _____	Middle Initial _____	Last Name _____
Prison Address _____		
County, City _____	State _____	Zip Code _____

Date on which I am delivering this complaint to prison authorities for mailing: _____